

ORDINANCE NO. 10-16-2000

STREET TREE ORDINANCE: AN ORDINANCE PROVIDING FOR
THE PLANTING, MAINTENANCE, AND REMOVING OF TREES
AND SHRUBS IN THE CITY OF LANESBORO, MINNESOTA.

BE IT ORDAINED by the City Council of the City of Lanesboro
as follows:

Section 1. PURPOSE. It is hereby declared to be the policy of the City of Lanesboro, Minnesota, to regulate and maintain, and protect the trees and shrubs in the City in order to control Dutch Elm Disease, Oak Wilt, or other shade tree diseases; to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks, or other public property of the City; to promote and enhance the beauty and general welfare of the City; to prevent damage to any public utility, street, sidewalk, or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe planting, removal, treatment, and maintenance practices; and to guard all trees and shrubs within the City against the spread of disease or pests. It is the intent of the City Council that the provisions of this ordinance shall apply to all trees, shrubs, or plants growing or hereafter planted in or upon any public right-of-way or other premises owned or controlled by the City, and also to all trees or shrubs growing or to be planted in or upon any private premises which shall threaten the lives, health, safety, or welfare of the public or of the property owned or controlled by the City.

Section 2. DEFINITIONS. Whenever the following words or terms are used in this ordinance they shall be construed to have the following meanings:

- (1) **City.** The City of Lanesboro, Minnesota.
- (2) **Person.** The word "person" shall mean person, firm, association, or corporation.
- (3) **Public Property.** Any area or building owned by the City of Lanesboro including but not limited to: boulevards, parks, playgrounds, dikes, streets, sidewalks and alleys, and public parking lots.
- (4) **Public Right-of-way.** Portion of property reserved for public use and accepted for such use by the city to provide circulation and travel to abutting properties, including but not limited to: streets, boulevard, alleys, sidewalks, provisions for public utilities and cut and fill slopes.

- (5) Tree. Tree means any tree, shrub, hedge or woody vegetation.
- (6) Public Tree. All trees growing on any public property or public right-of-way owned by the City of Lanesboro.
- (7) Private Tree. All trees growing on private property within the city limits.
- (8) Hazard Tree. Any public or private tree or part thereof which:

Has an infectious or destructive disease, insect problem or other pestilence which endangers the growth, health, life or well being of trees in the City, or which threatens to or is capable of causing a spread of a disease, pestilence or insect infestation;

Is dead, dying, broken or decayed;

Obstructs street lights, traffic signs, or the view of any street intersection

Obstructs the free passage of pedestrians or vehicles;

Is causing the surface of a public street, curb, or sidewalk to be up-heaved or otherwise disturbed;

Injures or poses an imminent threat of injury to the sewer system, electric power lines, gas lines, water lines or other public improvement; or

Constitutes an imminent danger to the health, safety or well-being of the general public

- (9) Boulevard. Area between curb and the private property line that is publicly owned.
- (10) Small Tree. Any plant material that will normally grow to a height of 30 feet or less.
- (11) Medium Tree. Any plant material that will normally grow to a height of more than 30 feet but not over a height of 50 feet.
- (12) Large Tree. Any plant material that will normally grow to a height of over 50 feet.

(13) Public Utility. Any public or private facility or system for producing, transmitting or distributing communications, electricity, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the City.

(14) Landmark Tree. Any tree which meets one or more of the following criteria; species rarity, old age, historical significance, abnormality or scenic or aesthetic significance as determined by the City Council.

(15) Topping. The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Sometimes referred to as "top".

(16) Forester. That person that the City Council assigns the duties to over see the activity of this ordinance.

Section 3. CITY COUNCIL DUTIES AND POWERS. The City Council or its authorized agent shall direct, regulate, and control the planting, care, and removal of all public trees and shrubs within the city and shall cause the provision of this ordinance to be enforced. However, owners or tenants may keep the shade trees along the public streets and avenues adjoining their property trimmed in such manner that such trees shall not interfere with travel on said streets, avenues, and sidewalks aforesaid.

Section 4. MASTER STREET TREE PLAN MAY BE ADOPTED.

The City Council may develop a master plan showing the location, spacing, varieties and species of all public trees and shrubs growing or to be planted in the public right-of-way within the City. No person may hereafter plant, transplant or move any public tree or shrub on any street or alley of the City except to the location and spacing shown in said plan and unless it is of the species or variety therein designated. The City Council may waive the requirements of this section in cases of extreme hardship where such waiver is in the public interest of necessitated by the physical characteristics of the tree or shrub.

Section 5. PLANTING, CARE AND REMOVAL OF PUBLIC TREES AND SHRUBS.

1. Permit required. No person, except the Lanesboro Public Utility Department or upon order of the City Council, shall plant, transplant, treat, **remove, destroy**, alter, or do surgery on any public tree or shrub within the City, or cause such acts to be done by others, without first obtaining a written permit for such work from the City Council as herein provided with the exception as provided in Section 3.
2. Exemptions. No owner or tenant shall be required to have a permit to cultivate, fertilize, or water public trees or shrubs adjoining his property. The Lanesboro Public Utilities Department shall not be required to obtain a permit for purposes of line-clearing activities. The City Council may authorize any person to do any work or act described in subsection (1) of this section without written permit whenever it determines that such work or action will not be detrimental to the public interest and will be in accord with the spirit and other requirements of this ordinance.
3. Requirements and Conditions of Permit. If the City Council determines that the proposed work or planting described in an application for permit is necessary and in accord with the purposes of this ordinance and the master street tree plan, taking into account the safety, health, and welfare of the public, location of utilities, public sidewalks, driveways, and street lights, general character of the area in which the tree shrub is located or proposed to be located, type of soil, characteristics and physiological needs of the species or variety of tree or shrub, the City Council may require that the permittee plant one or more trees or shrubs in place of the one removed, and no permittee under such a conditional permit may fail, refuse, or neglect to plant trees or shrubs of the type, size, and in the location specified in his permit.
4. Permits to Public Utilities. Whenever a permit is issued under this section to a public utility other than Lanesboro Public Utilities Department, to move, trim, prune, cut, disturb, alter, or do surgery on any public tree or shrub, the City Council may limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provision of the permit.

5. Tree Species. The Master Plan will have a list of desirable trees for planting along streets in three size classes: small, medium and large. A list of trees not suitable for planting will also be maintained in the Master Plan.

Section 6. HOUSE MOVING PERMITS. No person shall move any building, structure, or object exceeding 12 feet in height or width upon, over, or along any public right-of-way or other public place without first obtaining a written permit from the City Council, who may require the applicant to furnish a bond or certificate of insurance to cover the cost of repairing or replacing any public trees or shrubs which are injured as a result of the moving operations, specify the route to be taken, and impose any other conditions reasonably necessary for the protection of nearby public trees from injury. Permits issued under this section shall expire 30 days after date of issue.

Section 7. GENERAL TREE AND SHRUB REGULATIONS.

- (1) Trees to be Kept Trimmed. Trees and shrubs standing in or upon any private premises adjacent to any public street, right-of-way, sidewalk, park, playground, or other place shall be kept trimmed by the owner or owners of the premises upon or in front of which such trees or shrubs are standing so that the lowest branches projecting over the public street or right-of-way provide a clearance of 12 feet; and over all other public places of not less than 8 feet. The City Council may waive the provisions of this section for newly planted trees if it determines that they do not interfere with public travel, obstruct the light of any street light, or endanger public safety. Any tree or shrub not trimmed as herein provided is hereby declared to be a public nuisance.
- (2) Remove Dangerous Trees. The forester is authorized and directed to summarily remove any tree or bough or branch of a tree standing on any private property and overhanging any public street, road, alley or sidewalk, when in his judgement the presence of such tree, bough or branch constitutes an imminent danger to persons or private or public property. The provisions of this section include those trees found on the private property side of sidewalks but may properly be construed as boulevard trees.

(3) Obstruction of View at Intersections Prohibited.

Notwithstanding any other provision of this ordinance, no person shall maintain, plant, or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle approaching such intersection to the extent that such operator is unable to observe other vehicles or pedestrians approaching or crossing said intersection. Any such hedge, tree, shrub, or growth is hereby declared to be a public nuisance found within a distance of thirty (30) feet from the curb line, measured from the point of the nearest intersecting curbs or curb lines.

(4) Spacing. The spacing of public trees will be in accordance with the size classes listed in this ordinance, and no tree may be planted closer together than the following: Small trees 15 feet; medium trees 30 feet; and large trees 40 feet.

(5) Utilities No trees, may be planted under or within 10 lateral feet of any overhead transmission or primary utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility. All trees must be kept trimmed back to under ten feet from any utility line.

(6) Fire Hydrants and Driveways. No public trees shall be planted closer than 10 feet to any fire hydrant, nor 5 feet from any driveway or walkway.

Section 8. AUTHORITY OF CITY COUNCIL TO PRESERVE OR REMOVE PUBLIC TREES AND SHRUBS, ABATE PUBLIC NUISANCES AND SET RULES AND REGULATIONS.

(1) Authority over Public Trees and Shrubs. The City Council shall have the authority, but not the obligation to plant, trim, spare, preserve, renew, and remove public trees and shrubs or cause such work to be done as may be necessary to insure the safety or preserve the symmetry and beauty of public streets or grounds and to protect public sidewalks, streets, and utilities from damage or injury, or to control the spread of disease.

- (2) In order to secure uniform and continuous planting of trees along such streets and avenues as may be designated by the City Council Master Sheet Tree Plan, the City Council may plant trees to fill in blank planting spots, in accordance with a Master Plan.
- (3) In order to secure uniform and continuous planting of trees along streets and avenues within new developments within the City, the Council shall order in plantings after said development is 80% occupied and the cost of such plantings may be paid in any of the following ways (or combinations of ways as determined by the Council):
 - a. The City Council may require a developer at time of platting to provide a deposit in escrow to cover the cost of purchase and planting of boulevard trees within the development area he is proposing.
 - b. The City Council may order the purchase of and planting of such trees as a local improvement and assess the cost to the benefited property.
 - c. The individual property owner may at his option at the time the Council orders planting, purchase and plant trees on the boulevard providing he meets the spacing, location and species requirements per City Council regulations.

(4) Authority over Private Trees and Shrubs.

- a. Notice to Abate Nuisances. Whenever the City Council shall find on examination that any tree or shrub or part thereof growing or located upon part thereof growing or located upon private premises is a public nuisance as defined in this ordinance, or which endangers the life, health, safety, or property of the public, or which is infested with parasites or insect pests or disease which may spread or scatter to other trees and shrubs, they shall notify the owner or his agent in writing or by publication in the City's official paper that the nuisance must be sprayed, removed, or otherwise abated as directed in the notice within the time specified, which shall not be less than ten (10) days unless the City Council shall determine that immediate correction or removal is necessary for public safety.

b. Abatement by City. If the owner of such premises of his agent shall refuse or neglect to comply with the notice within the time specified, the City Council shall cause the nuisance to be sprayed, removed, or otherwise abated and any report the expense thereof to the City Clerk who may enter it as an assessment against the property upon which the tree or shrub is located.

- (5) Authority is Set Rules and Regulations, Agents. The City Council shall adopt rules and regulations to carry out the purposes of this ordinance. Such rules and regulations as adopted shall be put into writing and made available for public distribution at the Office of the City Council. Further, a copy of these rules and regulations shall be attached to each commercial license and license application form. The City Council shall have the power to designate agents to carry out and enforce any provisions of this ordinance.

Section 9. Private Property Owner's Responsibilities.

- (1) Protection and Maintenance of Public Trees in boulevard.
Any owner of private property abutting a boulevard shall have the following responsibilities for public trees located in the boulevard adjacent to the owners property:
- a. Periodic watering and fertilization of trees, located in the boulevard, when necessary to maintain good health and vigor;
 - b. Protection of trees against damage by lawn mowers, weed trimmers, snow blowers and similar equipment.

Section 10. INTERFERENCE WITH CITY COUNCIL PROHIBITED. No person shall prevent, delay, or interfere with the City Council or its agents, employees, or servants while they are engaged in carrying out any work or activities authorized by this ordinance.

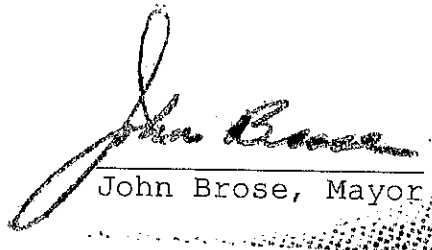
Section 11. VIOLATIONS. Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to provisions of the ordinance shall be guilty of a misdemeanor. If, as the result of the violation of any provision of this ordinance, the injury, mutilation, or death of a public tree is caused, the cost of repair or replacement of such tree may be ordered to be borne by the party in violation. The replacement value of tree shall be determined in accordance with the latest revision of the International Society of Arboricultural/Council of landscape Appraiser's system.

Section 12. SEPARABILITY. If any provision of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provision of this ordinance. The City Council of the City of Lanesboro hereby declares that they would have adopted each and every provision of this ordinance separately regardless of the possible invalidity of any part thereof.

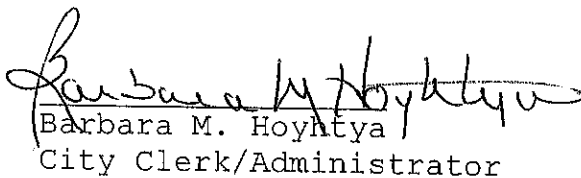
Section 13. CONFLICTS. Any ordinance of part thereof heretofore adopted which in any manner conflicts with any provision of this ordinance is hereby repealed.

Section 14. EFFECTIVE DATE. This revision of this ordinance shall take effect after its passage and publication as provided by law.

PASSED by the City Council of the City of Lanesboro this 16 day of October, 2000.


John Brose, Mayor

ATTEST:


Barbara M. Hoyntya
City Clerk/Administrator